

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

IGNACIO REYNOSO,

Petitioner,

No. 08-CV-6406 CJS

-VS-

DOMINICK NAPOLI,

DECISION AND ORDER

Respondent.

Now before the Court is Petitioner's Objections [#7] to a non-dispositive Report and Recommendation [#6] by the Honorable Victor E. Bianchini, United States Magistrate Judge. Pursuant to Rule 72(a) of the Federal Rules of Civil Procedure and Title 28 U.S.C. § 636(b)(1)(A), this Court may review non-dispositive matters previously decided by a magistrate judge and set them aside if they are clearly erroneous or contrary to law. FED. R. CIV. P. 72(a); 28 U.S.C. § 636(b)(1)(A) (2002). A finding is clearly erroneous if, "although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." *United States v. U.S. Gypsum Co.*, 333 U.S. 364, 395 (1948).

Petitioner has not demonstrated that the Report and Recommendation is clearly erroneous or contrary to law. Accordingly, Petitioner's Objections [#7] are denied, and Magistrate Judge Bianchini's Decision and Order [#6] is affirmed in all respects.

The Court hereby certifies, pursuant to 28 U.S.C. § 1915(a), that any appeal from this Order would not be taken in good faith and leave to appeal to the Court of Appeals as a poor person is denied. *Coppedge v. United States*, 369 U.S. 438 (1962).

Further requests to proceed on appeal *in forma pauperis* should be directed on motion to the United States Court of Appeals for the Second Circuit in accordance with Rule 24 of the Federal Rules of Appellate Procedure.

So Ordered.

Dated: Rochester, New York
March 19, 2009

ENTER:

/s/ Charles J. Siragusa
CHARLES J. SIRAGUSA
United States District Judge